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Banks and banking under
limited and unlimited...

London

1863

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BANKS AND BANKING,

UNDER

LIMITED AND UNLIMITED LIABILITY :

CONTAINING

A Brief Survey of the Progress of Joint-Stock Banks under the various Acts of Parliament, by which they have been governed under Limited and Unlimited Liability ; its application to the British Colonies ; the Influence of the Bank of England Charter on Banking ; the Fluctuations in the Bank of England rate of Discount ; the Progress of Commerce and Banking compared ; with a Statement of the London Joint Stock Banks to the Present Time ; and a

VARIETY OF INFORMATION USEFUL TO THE BANKER AND THE MERCHANT.

BY

HENRY AYRES,

AUTHOR OF "AYRES'S FINANCIAL REGISTER OF BRITISH AND FOREIGN FUNDS, BANKS, RAILWAYS,"

&c. &c. &c.

LONDON :

DAVIES AND CO., 1, FINCH LANE, CORNHILL.

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1863.

NORWICH UNION FIRE OFFICE,

INSTITUTED 1707.

Secretary—SIR SAMUEL BIGNOLD.

Actuary—C. J. BUNYON, Esq.

THE BONUS SYSTEM.

THREE-FIFTHS of the PROFITS of the Company are periodically distributed as a Bonus to parties insuring, who have thus from time to time received from the Society sums amounting in the aggregate to nearly £440,000.

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This Society is entirely distinct from the Norwich Union Fire Office. The aggregate Annual Income of the two Societies is nearly Half a Million sterling.

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Banks and Banking,

UNDER

LIMITED AND UNLIMITED LIABILITY.

The business of banking is a subject that has necessarily attracted the attention of all commercial nations; but like many other advantages associated with the progress of civilization, its advancement has been by slow degrees. The business of banking, in the simple meaning of our language, is the art of receiving and using the money of an aggregate number of persons, who have sufficient confidence in the judgment and integrity of those to whom it is confided. To suppose that a number of persons associated together would do so for the purpose of employing only their own money or capital for banking purposes, would lead to an erroneous view of banking altogether.

In the early history of banks in this country, the business of banking was limited almost entirely to the use of the precious metals in the form of gold and silver coinage; but when bank-notes began to form a part of the circulating medium of the country, it gradually assumed a variety of different features, not only as regards banking itself, but also with respect to the powers and privileges that should be conferred upon individuals or corporate bodies who acted as bankers.

For a considerable time after the formation of the Bank of England in 1694, what were known as private banks were conducted upon no settled basis, and the issue of their promissory notes, payable in specie on demand, without any legislative regulations, led to periodical financial difficulties of a very serious character. The Bank of England, however, although at its origin, introduced a system that gradually rendered the use of money cheaper, did not fail to take advantage of its position, by introducing into its Charter from time to time a variety of clauses to secure to the corporation a powerful monopoly of banking privileges, and which finally led to restrictions in banking that are only just beginning to be removed; and it is a remarkable fact that the original Charter only allowed the Bank to "borrow or owe" more than the amount of its capital, except each member of the corporation was made liable to the creditors in proportion to his stock; which was neither more nor less than what has been contended for in modern banking—Limited Liability.

"The Bank of England soon found its position menaced by other parties; and in 1704 a charter was granted to a company called "*The Misc Adventurers of England*," who established themselves into a bank, issued their own notes, and carried on a most extensive system of fraudulent transactions, which finally terminated in a suspension of payments. The Bank of England took advantage of this circumstance to secure to itself the privilege of issuing notes payable on demand; and in 1708 it had introduced into its Charter that notable clause which has been the subject of dispute to the present day, and which was a standing barrier against the introduction of Joint-Stock Banks issuing their own notes payable on demand, or to any other parties exceeding six until 1826. This clause ran as follows:—

1th Anne, cap. 7, sect. 61. "During the continuance of the Corporation of the Governor and Company of the Bank of England, it shall not be lawful for any body politic or corporate whatsoever, created or to be created (other than the said Governor and Company of the Bank of England), or for any other parties whatsoever, united or to be united in covenants or partnership, exceeding the number of six persons, in that part of Great Britain called England, to borrow, owe, or take up any sum or sums of money on their bills, notes payable on demand, or at any less time than six months from the borrowing thereof."

The introduction of this clause secured to the Bank of England a monopoly against all future intruders for a considerable number of years; and by its conferring upon the Government of the day some pecuniary advantages, the Charter was renewed at different periods, without any material modifications, until the year 1826.

The monetary panic of 1825 again led the public to the consideration of banking, and the privilege of issuing bank notes payable on demand. It had been found that during the war, which commenced in 1793, the withdrawal of specie had created such a scarcity of the circulating medium, that the Government and the country had become placed in the greatest difficulties, and the Bank had "resolved unanimously" not to discharge the bills due on the Treasury on the 31st of February, 1796.

In April of the same year a number of bankers and merchants met at the London Tavern, and passed a resolution against "an alarming scarcity of money in the city of London;" and that "this scarcity proceeds chiefly, if not entirely, from an increase in the commerce of the country, and from a diminution in the mercantile discounts which the Bank of England has thought proper to introduce into the conduct of the establishment during the last three months."

The bankers and merchants of London saw clearly that the power which the Bank of England exercised over the circulating medium of the country, as well as over mercantile discounts, had reached a point that called for legislative interference; and the country bankers were as loud in their remonstrances against the continuance of the Bank monopoly as the commercial public; for it was a well understood fact that the panic in 1825 was almost solely caused by the influence which the Bank of England exercised over the note circulation throughout the kingdom at that time.

In 1826, the first glimpse of freedom in banking began to exhibit itself; and the Directors of the Bank of England, who were desirous of saving their privileges extended to a further date, were told by the then

Chancellor of the Exchequer, Mr. G. F. Robinson, that "such privileges were out of fashion." In this year was passed the 7th Geo. IV. cap. 46, by which Joint-Stock Banks could be established as banks of issue, after being prohibited 118 years. But there was still lurking in the background a legal barrier: these banks could not come nearer to London than by a radius of sixty-five miles in all directions; no agents of such banks were allowed in London; nor were they permitted "to borrow, draw, or take up in London, or within sixty-five miles thereof, any sums of money on their bills or notes, payable on demand, or at any time less than six months from the time of borrowing." By this Act the Bank of England was first empowered to establish branches in any part of England: so that while it monopolised to itself a radius of sixty-five miles in every direction in the issue of notes, it secured for itself the privilege of banking in any other part of the kingdom; and while its own responsibility was based on Limited Liability, it was enacted by the first section of this Act to make "*every member liable and responsible for all the debts incurred by the corporation, notwithstanding any agreement or covenant to the contrary*," in every other Joint-Stock Bank.

In 1833 another advance was made by the Joint-Stock Banks; they were allowed for the first time to have agents in London: the privilege of the Bank of England with regard to partnerships exceeding six in number was abolished; and Bank of England notes were first made a legal tender, for all sums above £5, except at the Bank and its branches. It was under this Act that Joint-Stock Banks were first permitted in London. These concessions, however, were not the result of any special enactment, but were introduced incidentally into the Bank Charter of this year. Unlimited Liability was still inflicted upon the shareholders, and the Bank of England was still desirous of maintaining its monopoly against new comers, which was shown by an action it commenced against the London and Westminster Bank in 1835, for accepting bills at less than six months after date; but although the Court granted an injunction to restrain the directors from accepting bills at a less date than six months, it led to an evasion by country banks drawing upon the London and Westminster Bank "without acceptance."

It may be clearly seen that the slow progress of banking in this country, and the restrictions to which it has been subjected, may be attributed almost entirely to the monopoly granted to the Bank of England; for upon every renewal of its Charter it has sought to extend its privileges at the expense of the public, or of existing banking establishments.

The year 1833 was the commencement of a new epoch in Joint-Stock banking; and although the old monopolies could not be wholly swept away in that year, it was a most important step in advance that Joint-Stock Banks were permitted to be established within the charmed radius of sixty-five miles from London. The London and Westminster Bank took the lead in this new movement, and began business in March, 1834; and its able and respected manager, Mr. J. W. Gilbart, has lived to see it grow up to its present gigantic dimensions. The London Joint-Stock Bank the London and County, the Union Bank of London, and the Commercial Bank soon followed in the train, to be succeeded by several others whose

career has been equally marked by success; but it will be sufficient for the present purpose to have recourse only to those Joint-Stock Banks that were first established in London, under this change in the law, to exhibit the remarkable degree of prosperity which they have enjoyed. Taking the amount of deposits and current accounts as the surest evidence of public confidence, the following statement shows the amount held by the four oldest Joint-Stock Banks at each quinquennial period from 1840 to 1860:—

	London and Westminster Bank.	London Joint- Stock Bank.	London and County Bank.	Union Bank of London.	Total.
	£	£	£	£	£
1840	1,361,545	1,170,893	437,995	377,755	3,348,188
1845	3,590,014	2,460,476	1,489,738	2,012,548	9,552,776
1850	3,969,648	2,949,869	2,030,238	2,963,583	11,913,338
1855	8,166,553	6,241,594	4,443,359	8,363,460	27,214,966
1860	12,484,454	10,562,658	5,532,614	10,352,703	38,732,429

These figures show the increase of deposits and current accounts for a period of twenty years—a fact which exhibits the foundation on which their prosperity has been established. It is true that there have been examples of failure, during the above period, through fraud and mismanagement; but these are no more to be taken as evidence against the principles of Joint-Stock banking, than the falling of a railway bridge would be taken as a proof of the unsoundness of engineering science. The proof of the soundness of the Joint-Stock principle, applied to banking, is demonstrated by facts that can neither be refuted nor ignored.

The next item in the success of Joint-Stock banking is to be found in its profits; for even an increase of deposits would not be satisfactory, without it led to a corresponding increase in the amount of profits, as it is chiefly from a profitable use made of the deposit accounts that banking becomes a successful business. Taking the four Joint-Stock banks referred to above, at the same periods, their profits progressed as given below:—

	London and Westminster Bank.	London Joint- Stock Bank.	London and County Bank.	Union Bank of London.	Total Profits.
	£	£	£	£	£
1840	48,951	34,212	4,366	16,518	104,047
1845	66,344	38,685	13,578	36,419	155,026
1850	67,262	46,874	16,152	33,858	164,146
1855	156,407	117,855	68,900	139,967	483,129
1860	221,564	97,204	70,683	124,441	513,892

The principal interruption to the success of these Joint-Stock Banks was during the quinquennial period 1845-50, in which both deposits and profits greatly diminished, owing to the potato disease, the railway panic, and the deficient harvest of 1847: between 1845 and 1847, the

deposit account in the London and Westminster Bank diminished £856,261; the London Joint-Stock £498,564; and the London and County £264,618. The Union Bank of London was the only one of the above banks whose deposit accounts were not reduced at this period, but exhibited an increase of £497,516, and an increase of profits to the extent of £11,179. In 1860 great losses were experienced by the failure of Streatfield and the frauds of Pullinger.

From the quinquennial period, 1850-55, the success of these banks has been very great, and almost uninterrupted, which has been clearly shown in the statement of deposits and profits already given. It now remains to be seen what proportion the paid-up capital of each of these banks bears to the deposit and current accounts confided to them. This is found to be as follows up to December 31st, 1861:—

LONDON AND WESTMINSTER BANK.

	£	
Deposits	15,384,785	Proportion 6·5 per cent.
Capital	1,000,000	

LONDON JOINT-STOCK BANK.

	£	
Deposits	11,381,757	Proportion 5·2 per cent.
Capital	600,000	

LONDON AND COUNTY BANK.

	£	
Deposits	6,483,900	Proportion 8·7 per cent.
Capital	570,000	

UNION BANK OF LONDON.

	£	
Deposits	11,795,232	Proportion 6·1 per cent.
Capital	720,000	

These figures show the highest proportion of paid-up capital to the deposit and current accounts to be only 8·7 per cent., and the lowest only 5·2 per cent., or an average of about 5·3 per cent upon £45,000,000 of current liabilities; so that the capital of the bank customers constitutes about 94·7 per cent. of the total capital of the four banks. This proportion of the paid-up capital of the shareholders has gradually diminished under the great increase of deposit and current accounts during the last five years: for in 1856 the London and Westminster ratio was 9 per cent., the London Joint-Stock 8 per cent., and the London and County 13 per cent.; showing clearly that banking profits depend very

much upon the small proportion per cent. which the paid-up capital of banks bears to the deposit and current accounts.

But in this respect the unchartered Joint-Stock Banks have had a considerable advantage over some of those that have since been established, having no legislative limit fixed to their paid-up capital. For instance, the London and Westminster Bank, with more than £15,000,000 liabilities in deposit, and current accounts, has only paid up £20 per share. The London Joint-Stock Bank, with upwards of £11,000,000 of deposit accounts, has only paid £10 per share; the Union Bank of London £12, and the London and County £20 per share. Hence, the large dividends payable by those banks, the progress of which is given below:—

	London and Westminster Bank.	London Joint- Stock Bank.	London and County Bank.	Union Bank of London.
	Per cent.	Per cent.	Per cent.	Per cent.
1840	6	5	5	5
1845	6	6	5	5
1850	7	7½	6	6
1855	15½	20½	15	20
1860	20	12½	11	10

The decline in the rate of the Union Bank of London arose from the arrangements necessary to be made in consequence of the frauds of Pullinger in 1860, and that of the London and Joint-Stock, from the losses by Streatfield in the leather trade.

In 1844 the Bank of England Charter was again renewed for a further period of ten years beyond the term granted to it in 1833, under the Act 3 & 4, Will. 4, cap. 98, according to a proviso in that Act that it should cease in August 1845, upon the Bank receiving twelve months' previous notice, and the repayment of the debt due by the State. As there was no probability that the latter condition would be complied with, the Bank succeeded in carrying it through Parliament; but it contained a number of changes that raised up a host of enemies against its introduction. For not only was it strongly opposed by the mercantile community, but it received almost universal condemnation by the Private and Joint-Stock Banks throughout the United Kingdom, in consequence of its monopolising character, and its interference with the freedom of banking. The late Sir Robert Peel, and several Bank of England directors, strongly supported the measure; and Mr. Henry Goulburn, who was then Chancellor of the Exchequer, stated in the House of Commons, that the main object of the changes introduced into this Charter was "to prevent, as much as possible, fluctuations in the currency of the nature of those which had at different times occasioned hazard to the Bank." Here is the confession of Government itself, that it was from a desire to maintain the interests of the Bank, that the sweeping changes introduced into this Charter were proposed. Its chief aim was to destroy the privileges granted to Joint-Stock Banks in 1826, by limiting the future issues of all existing banks to a fixed average, obtained by the amount of notes in circulation for *twelve weeks* preceding the 27th of April, 1844, under a penalty of forfeiting a sum equal to the excess.

By this Charter the Bank of England, at the expense of the public, was permitted to exercise its power against the entire banking interest of the community; for by sections 10, 11, & 12, new banks of issue were prohibited; restrictions were placed on those in existence; and any bank which ceased to issue its notes, was prohibited from re-issuing them. It was also enacted by the 5th section, that to supply the place of country notes which ceased to be issued under this Act, the Bank of England might increase its issues to the extent of two-thirds of such notes; this was done by an order in Council, Dec. 13, 1855, by which the fixed issues of the Bank of England were increased from £14,000,000 to £14,475,000; and this was only done owing to the extreme pressure of the money market, which caused the Bank of England to raise its minimum rate of discount to 7 per cent.; for although the country bank issues withdrawn from circulation, since 1844, amounted to £712,623, this was the first instance of the Bank of England having made any increase to its fixed issues for a period of eleven years. The manner in which this amount of circulation became extinct was as follows:—

	Authorised Issue.
18 Private Banks closed	£ 217,146
11 Do. became bankrupts	175,778
8 Joint-Stock Banks dissolved	162,087
10 Private Banks issue Bank of England notes	157,612
47	£ 712,623

To show the result of this Act upon the circulating medium of the country since 1844, a few particulars are necessary. In that year there were 203 private banks of issue, and 72 Joint-Stock Banks of issue, making a total of 275 banks issuing £8,048,853 in bank notes. The result to the present time is given below:—

Original fixed issue of 203 Private Banks	£5,154,407
Present fixed issue of 151 Private Banks	4,329,311
52	Decrease £824,096
Original fixed issues of 72 Joint-Stock Banks	£3,495,446
Present fixed issues of 63 Joint-Stock Banks	3,303,357
9	Decrease £192,809

This statement shows that the bank note circulation of country banks in England and Wales is less by £1,061,175 than it was 18 years since in its fixed amount. But as none of these banks issue to the full extent of their power, in order to avoid the penalty of the law for exceeding the legal average, their actual circulation is considerably below their fixed issues, and generally to the extent of about £1,300,000. So that the Bank of England Charter of 1844 has not only prohibited any new bank of issue, but it has also reduced the country bank note circulation nearly

2½ millions below what it was in 1844, notwithstanding the vast increase in trade, manufactures, and population.

It would be a waste of language to attempt to prove that this Charter was granted to the Bank of England with any other object than to secure to that corporation what the Act expresses—"certain privileges for a limited period;" and these "privileges" have always been obtained to the disadvantage of the public. The prosperity which has been enjoyed by banks generally during the last ten years, through the great increase of internal and external commerce, has in some degree quieted the opposition which at various times has been made to this Act; but it should always be borne in mind that this reduction and restriction of the circulating medium of the country, in the face of an unlimited extension of trade and commerce, must be regarded as the primary cause of monetary pressure during periods of commercial difficulty, inasmuch as there is no power of expansion given to it upon any sound basis. What would be thought of a Government that should pass an Act to restrain the authorities at the Mint from coining only the same number of ounces of gold in 1862 that they did twenty years ago? Yet this is virtually the principle of the Bank Charter Act of 1844, in reference to the country issues of bank notes payable on demand. As the professed object of this measure was "to prevent fluctuations in the currency," every merchant in the kingdom knows that it has proved a complete failure, and ever will be so when any emergency shall arise to cause an extraordinary demand for specie from the Bank coffers. The panic of 1847 clearly demonstrated that the Bank may be compelled to suspend specie payments, with £8,000,000 of bullion and coin in its possession, in consequence of the separation of the administration into two distinct departments.

The Bank of England in 1844, seeing that Joint-Stock Banks were becoming very formidable competitors, and that their walls were towering around the precincts of Threadneedle Street, determined to prescribe a new law for the government of Joint-Stock Banks, by passing the 7 & 8 V. c. cap. 113. Under this law a new scheme of preliminaries was introduced. After the 6th of May, 1844, no Joint-Stock Bank could be established except "by virtue of letters patent," that is, by the old Charter system of petitioning Her Majesty in Council; such charter to be granted on the report of the Board of Trade, when the Lords of the Committee had reported to Her Majesty that the Act had been complied with, and with "the advice of Her Majesty in Council."

The interference and restrictions of this Act were of the most obstructive character, both as regards the formation of a bank, and its general management, not omitting the principle of *Unlimited Liability*, which was set forth in section 7, while it gave to every shareholder the pleasing hope that it would only last for *three years* after he had ceased to be a shareholder in the Company. This Act contained forty-eight sections, and, strange to say, that, with all its absurd restrictions and regulations, it did not contain a single penalty for breach of trust, nor for the non-fulfilment of any of its provisions. There can be no doubt that the framers of the Bank Charter of 1844 had much to do with the construc-

tion of this Act; and although a few Joint-Stock Banks had the courage to combat with its complicated and despotic provisions, a more disgraceful Act was never introduced to a commercial community. The Royal British Bank was the first bank established in London under this Act, and it was the first to come under the operations of its legal provisions, which ultimately proved ruinous to the shareholders, in consequence of the divided powers conferred upon the Court of Chancery and the Court of Bankruptcy. This Act was evidently designed to bring the Joint-Stock system of banking entirely under the control of the Government, through the Board of Trade, and so far from *Unlimited Liability* being a security for depositors, the present law was calculated to render it intolerable, and ruinous both to the depositors and shareholders, which was practically demonstrated in the affairs of the Royal British Bank. Hence the determination of the commercial public to get rid of a law founded upon the grossest injustice. That it was intended as a supplementary measure to the Bank Charter Act of the same year is beyond a doubt; yet it is to be hoped that the day is not far distant when the law of banking in this country will be divested of those anomalies and inconsistencies which have been its chief characteristics during the last century, simply to preserve to a privileged corporation its ancient monopolies.

It is impossible to examine the history of this wealthy and influential corporation, uninfluenced by prejudice, without coming to the conclusion that at every renewal of its Charter, the Company have been actuated by the same spirit which has animated all chartered corporations—that of securing to its own members as many "privileges" as could be retained, and for as long a period as possible. This opinion has been maintained by a number of the highest authorities that have written upon the subject, and the following quotation from Mr. Gilbart's "Practical Treatise on Banking," in reference to the interference with the country note circulation, exhibits the subject in a very lucid manner:—

"When the subject of the Act of 1844 is brought under consideration, means should be employed to obtain some modification of those clauses that have reference to the Country Banks. The country circulation should be preserved in its integrity—should be rendered capable of expansion, so as to meet the demands of a more numerous population—extended commerce—higher prices—and increased taxation. Its issues should be allowed to be regulated by the demands of trade and agriculture in the respective districts in which the banks are established, and should be rendered as much as possible free from the operation of the Foreign exchanges."

Mr. Gilbart, as a practical writer on banking, saw clearly the injustice, as well as the false principle, of attempting to regulate the amount of Country Bank notes upon the basis of the Bank Charter of 1844; for he says, "When the country circulation had *greatly declined*, we took the actual circulation of the then existing notes, and made it a *maximum* circulation."

Again he says;—

"No one is forbidden to reduce his issue as low as he pleases; and if he

abandons it altogether, only *two-thirds* can be supplied, and that by permission of the Government, and then only upon the application of a Bank whose head-quarters are in London, and whose issues are governed by laws which have been declared by the country bankers to be inapplicable to the operations of a local currency, and unsuitable to domestic industry."

It is clearly evident that if the bank note circulation of the country should bear any relation to the progressive increase of population, commerce, prices, and taxation, then the Bank Charter of 1844 may be regarded as an Act of national folly, and sooner or later it must be swept away from the existing laws of the statute book. If the pretending philosophers who thus legislate upon banking and currency will undertake to prove upon what principle a *fixed* amount of the circulating medium can serve the wants of a nation, ever increasing in numbers, commerce, and in taxing powers, there might be some hope of discovering that a man would require no more money to support a dozen children with the same ease that he could once maintain half that number. The analogy, perhaps, is not strictly correct; but to give into the hands of a public company the power of limiting an article in which it trades itself, is like going back to the days of the East India Company, when every pound of tea consumed must first be lodged in the Company's warehouse.

The extraordinary swindle of the Royal British Bank induced the public to reflect a little upon the system of charters, and *Unlimited Liability* in Banking; but the Legislature, although it could not maintain the system of granting charters under the 7 & 8 Vict. cap. 113, struggled hard to uphold the principle of *Unlimited Liability*, and in 1817 enacted a new Banking law, 20 & 21 Vict. cap. 49, which repealed the 7 & 8 Vict. cap. 113, reserving the favourite proviso, "that no existing or future Banking company shall be registered as a *Limited Company*."

There appears to have been something so terrible in the word, "*Limited Liability*," when applied to Banking co-partnerships, that it is rather surprising the term was ever admitted into the civil code. In the following year, however (1858), the 21 & 22 Vict. cap. 91, which enabled Joint-Stock Banking Companies to be formed on the principle of *Limited Liability*, was passed, and those Banks that had been established under *Unlimited Liability* could register under *Limited Liability*, by conforming to certain regulations. But whether it was owing to the previous notice of thirty days required to be given to every person or partnership firm who should keep a banking account with such company, or otherwise, not one of the London Joint-Stock Banks established in London under the principle of *Unlimited Liability*, has registered under this Act; and it is only within a recent period that Joint-Stock Banks, established in London and elsewhere, have adopted the principle of *Limited Liability*.

As so much has been said of the Bank Charter Act of 1844, in reference to banking, it may be as well to glance at what the nation has been doing since that time in the way of business. The following official facts will throw some light on this subject, between the years 1847

and 1860, the year before the American war interfered with our commerce and industry.

	1847.	1860.	Increase per cent.
Population of England and Wales, No.	17,132,000	19,002,918	16.1
Net Revenue, £.	51,546,204	67,458,063	30.8
Expenditure, £.	54,502,948	68,069,231	24.8
(a) Export Trade, £.	58,842,377	135,851,227	130.9
Cotton imported, lbs.	474,707,615	1,390,658,752	193.0
(b) Cotton manufactured, yds.	937,229,489	2,765,337,515	195.0
Cotton manufacture exported, £.	23,333,225	52,012,380	122.9
Wool imported, lbs.	62,592,598	145,396,577	137.0
Woolen manufacture exported, yds.	7,897,492	16,000,448	102.6
Wheat imported, qrs.	4,784,152	15,641,578	226.9
(c) Exports of gold, £.	3,818,445	9,893,190	159.0
" " silver, £.	166,938,241	345,130,127	108.5
" " passengers, No.	3,945	10,433	164.4
" " miles opened, No.	51,352,163	163,483,572	218.3
" " receipts, £.	8,510,886	27,766,622	226.2
(d) Savings Banks deposits in England and Wales, £.	26,445,949	36,701,213	38.7
Shipping, British and Foreign: entered and cleared with cargoes, tons.	10,810,293	20,837,918	92.7

(a) As the official accounts do not give the computed real value of imports before 1854, they cannot be inserted; in that year the total amount was £152,389,653, and in 1861 it was £217,351,881.

(b) Exclusive of twist and yarn.

(c) The imports of bullion and specie, by some unaccountable neglect in the public accounts, were not registered at the Custom House before November, 1857, or six years after the gold discoveries in Australia. Since this the gold and silver imported in each year have been as follows:—

	Gold.	Silver.	Total.
1858.....	£22,793,126	£6,700,064	£29,493,190
1859.....	22,297,098	14,772,458	37,070,156
1860.....	12,584,684	19,363,512	31,948,196
1861.....	12,163,937	6,583,108	18,747,045
Total Imports.....	£69,839,445	£38,440,142	£108,288,587
Total Exports.....	£97,528,129	£44,135,966	£141,664,095

(d) The total amount of deposits for the United Kingdom in 1847, was £30,207,180, and in 1861 it was £41,632,945, being an increase of 30.7 per cent.

This statement might be considerably extended, and applied to almost every description of property, and to almost every branch of industry in the Kingdom, but enough has been given to show the gigantic strides that have been made in this country since 1844. Yet we still continue to bind up this vast machinery of wealth and enterprise in the swaddling clothes of the Bank Charter Act of that year; an Act that was professedly framed "to prevent fluctuations in the currency." As well might an attempt have been made to prevent the ebbing and flowing of the tides, or the rising and setting of the sun.

There is one subject that has been omitted in the above statement, because it requires to be separately noticed; namely, the state of the currency at the above-mentioned periods; this has been done to avoid falling into the error of supposing that the circulating medium must necessarily be expanded in the same proportion as trade, commerce, and

agriculture increase, between one period and another, inasmuch as they are totally dissimilar in their nature and functions: for while a hundred quarters of wheat, a hundred pieces of calico, a hundred tons of coals, and a hundred firkins of butter, may exist in their respective forms to-day, not one of them may do so a week hence. Not so with the circulating medium of the country, whether it consists of paper or of the precious metals; for instead of its being a consumable article, it is a *measure* of the consumption of all other articles. For instance, a gold sovereign that is coined to-day may perform a hundred exchanges to-morrow, and thus represent transactions to the amount of a hundred pounds, while it would still be in existence ready to perform the same number of operations every day in the year. The real value, therefore, of the circulating medium is measured, not by the nominal amount in circulation, but by the number of exchanges which are performed by a given amount in the shortest time. The profits of banking are based almost entirely upon this principle. Hence bankers do not like money remaining idle in their hands, because to them it is always unprofitable.

Mr. Cobden, in his address to the Lancashire operatives, has fallen into an error on this subject, in taking the nominal amount of wages paid to this class at £9,000,000 per annum, as the actual loss to the Lancashire districts, in consequence of the suspension of labour. Whereas the actual value of this amount of wages distributed weekly throughout the year extends to many more millions. As it is an indisputable fact in social economy, that the value of wages can only be measured by the number of exchanges effected in a given time, the loss upon trade, and the different classes of society amongst the large population of the distressed districts, is something enormous. By way of illustration, £1,000 in wages are distributed through numerous channels during each week of the year, and this process is continually recurring where wages are constantly paid. Let it be assumed that in each week the number of exchanges effected by this £1,000 amounted to ten times for each pound; that is, that the claims of ten different persons have been satisfied, which is the true theory of the distribution of the wages. The sum of £1,000 paid in wages is thus converted into ten times that amount, making the actual value in trade equivalent to £10,000 weekly. Applying the same principle to the sum of £100,000, paid weekly in wages, the annual value of its distribution becomes something astonishing in its magnitude: for it is equivalent to £52,000,000 per annum! It is the withdrawal of wages that has produced the terrible results the nation has been called upon to combat with, and for which society can find no actual substitute. Hence the necessity for restoring labour to its legitimate functions, in order to recover the industrious classes from the disorganization into which the cessation of wages has plunged them.

Amongst the several Joint-Stock Banks that have been recently formed, there may probably be found some persons who regard this part of the subject with perfect indifference, and who consider that it has no connexion with banking as a business, but this will be found a serious error. Every bank in its daily transactions has to deal in the raw material—paper money—(if it may be so termed) as well as in the coin of the realm, therefore the restrictions which have been pointed out in these

pages require to be clearly understood by all those who undertake to direct the movements of a bank. On more than one occasion the Bank of England has been almost entirely deprived of its notes under the present law, and the restrictions placed upon other Banks of Issue have greatly increased the intensity of the pressure upon its metallic resources at such times. The late Mr. Samuel Gurney said to the Government, in 1847, on behalf of the London and Country Bankers, "We do not absolutely require bank notes, but we wish to know that we *can* have them if we do require them."

By referring to the statistical facts of banking, and comparing them with the vast increase which has taken place in every branch of trade and commerce exhibited in the foregoing statement, it will be found that banking facilities, instead of advancing, have been very greatly contracted. The Bank Charter Act, of 1844, started into existence by giving to the country, besides its own corporation, 203 Private Banks, and 72 Joint-Stock Banks, with power to issue their own notes, to the amount of £8,648,853. The Private Banks of Issue are now reduced to 151, and the Joint-Stock Banks to 63, being a decrease of 61 Issuing Banks. The actual average notes in circulation in 1847, and 1860, were as follows:—

	1847.	1860.	Per cent.
Bank of England	£ 19,811,000	£ 21,571,000 inc.	8.8
Private Banks	4,199,408	2,966,722 dec.	29.6
Joint-Stock Banks	3,355,925	2,978,558 dec.	11.2
Total	£ 27,366,333.	27,516,280 inc.	0.7

These figures show that, notwithstanding the extraordinary progress that has been made in the national industry, the increase of the note circulation of the country in 1860, was less than *one* per cent. on the amount in circulation in 1847.

It will perhaps be asked "whence the remarkable prosperity of the Joint-Stock Banks whose history is recorded?" The question may be easily solved. The last decennial period, owing to the discovery of gold in California and Australia, has produced results that have set at nought many of the restrictions imposed on Banks and Banking. The expansion of our commerce, in connection with this discovery, has contributed to make Banking one of the most profitable occupations in the kingdom, and hence the rapid increase of dividends, which the Joint-Stock Banks exhibit in their accounts; so long as commerce flourishes, Banks will prosper; and when commerce languishes, their profits will diminish.

One of the most remarkable facts connected with our increased commerce is shown in the movements of the precious metals. Unfortunately our statistics are not complete on this subject, for several years after the discovery of gold. But it is well known that this discovery has led to a very great increase in the metallic circulation of the country, which has in a great degree compensated for the restrictions and limitations of bank note issues, and has modified the results of an inefficient law.

From 1847 to 1851, the year in which gold was discovered in Australia, the coinage at the English Mint was £15,680,633; from 1851 to 1856,

the amount coined was £39,858,221; and from 1856 to 1861, it amounted to £20,052,271; making a total of £75,591,125, of which £59,910,492 have been coined since the discovery of gold in Australia; an amount that exceeds by 2·7 times the entire paper circulation of England and Wales, or more than double the amount of the entire bank note circulation of the United Kingdom, which averages about £37,000,000, being on y equal to the amount at which it stood in 1847. It is this remarkable distribution of the metallic circulation, in connection with a prosperous commerce, that has contributed to render the Private and Joint-Stock Banks less dependent on the Bank of England than at any former period.

There is yet another point in banking which demands much greater attention than is generally given to it by those who enter into the banking business, that is, the fluctuations which take place in the minimum rate of discount charged by the Bank of England; these fluctuations have become so numerous since the Bank Act of 1844, that they constitute one of the leading features in the study of banking. It is not intended in these pages to enter into a lengthened argument in reference to such fluctuations, but they may be clearly traced to the movements of bullion at the Bank of England, and to the way in which those movements are influenced by political and commercial causes in different parts of the world. Several of the most intelligent bankers and merchants do not hesitate to attribute them to the constitution of the Bank itself. If the reader will carefully study the table of fluctuations given on pp. 17—19, he will find ample scope for inquiry into the various causes by which they are governed.

A TABLE SHOWING THE MINIMUM RATE OF DISCOUNT CHARGED BY THE BANK OF ENGLAND, FROM 1844 TO 1862 INCLUSIVE, WITH THE AMOUNT OF BULLION HELD AT THE CORRESPONDING DATES.

Dates.	Rates of Discount.	Amount of Bullion.
1844.		£
September 5 ...	2½ per cent.	15,200,000
1845.		
October 16 ...	3 per cent.	14,190,000
November 6 ...	3½ „	13,722,000
1846.		
August 27 ...	3 per cent.	16,366,000
1847.		
January 14 ...	3½ per cent.	13,948,000
„ 21 ...	4 „	13,422,000
„ 5 ...	5 „	9,867,000
April 8 ...	5, 5½, 6 „	9,252,000
August 2 ...	5½ „	
„ 5 ...	8 „	8,312,000
October 25 ...	7 „	10,533,000
November 22 ...	6 „	11,032,000
December 2 ...	5 „	12,236,000
„ 23 ...		
1848.		
January 27 ...	4 per cent.	13,390,000
June 15 ...	3½ „	14,169,000
November 2 ...	3 „	13,407,000
1849.		
November 22 ...	2½ per cent.	16,380,000
1850.		
December 26 ...	3 per cent.	14,963,000
1851.	No alteration.	
1852.		
January 1 ...	2½ per cent.	17,557,000
April 22 ...	2 „	19,587,000
1853.		
January 6 ...	2½ per cent.	19,765,000
„ 20 ...	3 „	19,405,000
June 2 ...	3½ „	18,254,000
September 1 ...	4 „	16,400,000
„ 15 ...	4½ „	15,862,000
„ 29 ...	5 „	15,612,000

Dates.	Rates of Discount.	Amount of Bullion.
1854.		
May 11 ...	5½ per cent.	12,589,000
August 3 ...	5 "	13,299,000
1855.		
April 5 ...	4½ per cent.	15,078,000
May 3 ...	4 "	15,619,000
June 14 ...	3½ "	18,060,000
September 6 ...	4 "	14,217,000
" 13 ...	4½ "	13,698,000
" 27 ...	5 "	12,938,000
October 4 ...	5½ "	12,279,000
" 18 ...	6 & 7 "	11,230,000
1856.		
May 22 ...	Equalised to } 6 per cent. }	9,723,000
" 29 ...	5 "	11,384,000
June 26 ...	4½ "	13,073,000
October 1 ...	5 "	10,784,000
" 6 ...	6 & 7 "	10,140,000
November 13 ...	7 "	9,684,000
December 4 ...	6½ "	10,486,000
" 18 ...	6 "	10,514,000
1857.		
April 2 ...	6½ per cent.	9,987,000
June 18 ...	6 "	10,909,000
July 16 ...	5½ "	11,592,000
October 8 ...	6 "	10,663,000
" 12 ...	7 "	10,110,000
" 19 ...	8 "	9,524,000
November 5 ...	9 "	8,498,000
" 9 ...	10 "	7,170,000
December 24 ...	8 "	7,263,000
1858.		
January 7 ...	6 per cent.	12,643,000
" 14 ...	5 "	13,357,000
" 28 ...	4 "	13,398,000
February 4 ...	3½ "	15,793,000
" 11 ...	3 "	16,574,000
December 9 ...	2½ "	18,295,000
1859.		
April 28 ...	3½ per cent.	16,960,000
May 5 ...	4½ "	16,571,000
June 2 ...	3½ "	17,095,000
" 9 ...	3 "	17,268,000
July 15 ...	2½ "	17,338,000

Dates.	Rates of Discount.	Amount of Bullion.
1860.		
January 19 ...	3 per cent.	15,884,000
" 31 ...	4 "	14,942,000
March 29 ...	4½ "	15,271,000
April 12 ...	5 "	14,637,000
May 10 ...	4½ "	15,373,000
" 24 ...	4 "	15,844,000
November 8 ...	4½ "	13,897,000
" 13 ...	5 "	13,314,000
" 15 ...	6 "	13,314,000
" 29 ...	5 "	13,860,000
December 31 ...	6 "	12,798,000
1861.		
January 7 ...	7 per cent.	12,752,000
February 14 ...	8 "	12,571,000
March 21 ...	7 "	12,701,000
April 4 ...	6 "	13,002,000
" 11 ...	5 "	13,122,000
May 16 ...	6 "	12,382,000
August 1 ...	5 "	12,196,000
" 15 ...	4½ "	12,647,000
" 29 ...	4 "	13,104,000
September 19 ...	3½ "	13,999,000
November 7 ...	3 "	14,210,000
1862.		
January 9 ...	2½ per cent.	16,046,000
May 24 ...	3 "	16,344,000
July 10 ...	2½ "	17,055,000
" 24 ...	2 "	18,060,000
October ...	3 "	15,516,000

The above table can only be studied with advantage by examining it in connection with the circumstances under which the fluctuations have occurred; at the same time it must be borne in mind, that there are certain principles inherent in the constitution of the Bank of England which contribute greatly to render these fluctuations extremely injurious to the commerce and trade of the country, owing to the power which the Bank exercises over the circulating medium, and various descriptions of property. The years when this power has been exercised are clearly delineated in the foregoing statement:—Commencing in the year 1847, it may be traced through the years 1855, 1856, 1857, 1860, and 1861. In the year 1857 the rate of discount charged by the Bank, on the 9th of November, was 10 per cent. The result of this was an alarming panic on the Stock Exchange, and nearly every description of security was almost unsalable, except at an enormous loss. It is also an important fact to bear in mind,

that in consequence of the Bank having its accounts made out in two departments, namely, the Issue Department and the Banking Department, the Bank Directors may be driven to a suspension of cash payments, with from seven to eight millions of bullion and specie in its coffers! This has been demonstrated on several occasions since the passing of the Bank Charter Act of 1844, when the Bank authorities have been compelled to apply to Government for power to increase their issue of notes—a circumstance that must be repeated as often as the legalized issue of notes under the Charter are insufficient for the wants of the community, or when the stock of bullion is reduced to about eight or nine millions. Should any approach to war again happen with the great Powers of Europe, as with Russia, in the Crimea, it is almost certain that the movements of the Bank of England, and their results upon the property of the country, will be of a very damaging character. These are very important points to be taken into consideration by the newly-formed banks, for the extent to which they have to conduct their operations through the circulation of the Bank of England is very great, and when that circulation is rapidly diminished, and the rate of discount as rapidly advanced, there is no business that requires more vigilance than that of banking.

During the years 1847, 1855, 1856, 1857, 1860 and 1861, the Bank minimum rate of discount was changed about *fifty-six* times. It is impossible that commerce and trade can bear these shocks to credit; and a very influential journal has prophesied that the nation has only to wait till 1867, when "many families may expect to find themselves reduced to poverty." There are, however, not wanting, amongst the proprietors of Bank stock, men who see in this arbitrary power of the Bank to fix the rate of discount a serious evil to the mercantile portion of the community. At the last General Court held for declaring a dividend, Mr. Lawrence Levy spoke as follows:—

"Whilst he felt much pleasure in seconding the resolution, because he believed that under the restrictions which were placed upon the proceedings of the Bank of England the accounts showed as favourable a result as might be anticipated, yet he would venture to say that the time had arrived when many of the present regulations and restrictions should be rescinded in order to render this establishment as beneficial to the proprietors of Bank stock as many of the surrounding banks were to their respective shareholders. No one would attempt to contrast the dividends of this Bank with others; but on the present occasion the contrast was the more striking from the fact that whilst the dividends declared by the joint-stock banks up to the end of last year comprised a period when the value of money was at a very low rate, the directors of the Bank of England had had the benefit of money being for some time at 3, 4, and 5 per cent. It therefore struck him when he looked into the account that the dividend now declared upon £14,000,000 only, and not on the rest—that that dividend did not really amount to $\frac{3}{4}$ per cent.; it was, he believed, not more than $\frac{3}{4}$ per cent. for the half-year. He contended that this arose from arbitrarily fixing a *minimum* rate of interest, because whatever it might be, they were sure to be *sold* by surrounding establishments. Again, it was a matter worthy of consideration whether a discretionary power should not be vested in this Court to accept a lower rate than the *minimum*, as the closing the doors of the Bank to the brokers and discount houses did a great deal of harm."

Perhaps there might be a little selfishness about these remarks, and some jealousy at the surrounding banks, which were capable of paying to their shareholders dividends at a much higher rate; but the Governor of the Bank placed the matter in a very clear light when he referred to the very large capital on which the Bank of England has to pay dividends when compared with other joint-stock banks. For while the Bank of England has lent its capital to one customer—the State—the other banks are enabled to pay their large dividends on a small amount of paid-up capital by a judicious management of the deposits of their customers. At the same time the remarks of Mr. Levy on the arbitrary practice of fixing the minimum rate of discount are well worthy of consideration.

APPENDIX.

THE LONDON JOINT-STOCK BANKS IN 1862.

As Joint-Stock Banking, under limited liability, has become a marked feature during the past year, it may be desirable to give a brief sketch of the actual position of the principal Joint-Stock Banks in London which have been established upon the principle of unlimited liability. The success of these banks is too forcibly marked in their progress to demand any argument to support it; and, except where bad management and fraud have interfered as an obstacle to their prosperity, the London Joint-Stock Banks exhibit one of the most remarkable instances of the increase of national wealth and industry. It is not surprising that the periodical figures set forth in the balance-sheets of these banks should attract the attention of speculative capitalists; and as the banking laws of this country have been for many years encumbered with numerous restrictions of a very arbitrary and objectionable character, it is natural that the public should avail itself of a system of freedom enjoyed by the Bank of England, and similar chartered institutions, by avoiding to exact from the shareholders in Joint-Stock Banks an amount of responsibility which reason and justice condemn. The Joint-Stock Banks that have started upon the principle of limited liability, most assuredly have legislation in their favour; but their success will depend on a variety of circumstances well understood and carefully weighed. Time alone can decide the results of their influence upon the mercantile and trading portion of the community. There is a wide field open before them in our commercial transactions, at home and abroad; and it is only attributable to the hitherto complicated laws on banking that this branch of our social policy has remained so long without improvement. Unlimited liability, it is hoped, will soon become a definition of the past, and be obliterated from the code of our banking laws.

The following statement of the position of the London Joint-Stock Banks, to the 31st December, 1862, is extracted from the *Times* of February 10th, 1863:—

The half-yearly meetings of the several Joint-Stock Banks in London being now completed, the subjoined tables have been made up exhibiting their position. The first table shows the period at which each bank was founded, together with its subscribed and paid-up capital; the second shows the amount of liabilities, the amount of guarantee fund, and the rate of dividend distributed; and the third, the progress made by each institution during the past seven years. The current accounts and deposits held by the nine banks in the list reach a total of £54,212,822, exclusive of those of the London and Middlesex Bank, from which a detailed report is not yet due. This total is nearly 7 per cent. in excess of that of the corresponding period of last year—an increase which, although very large, is not so great as that of the previous twelve months, when it was more than 15 per cent. :—

Banks.	Year Established.	Subscribed Capital.	Paid-up Capital.
		£	£
London and Westminster ...	1834	5,000,000	1,000,000
London Joint-Stock ...	1836	3,000,000	600,000
Union Bank of London ...	1839	5,000,000	720,000
London and County ...	1839	1,500,000	598,375
City Bank ...	1855	800,000	400,000
Bank of London ...	1855	600,000	300,000
Metropolitan & Provincial (limited)	1861	1,000,000	73,000
Alliance Bank of London and Liver- pool (limited) ...	1862	2,000,000	245,605
Imperial Bank (limited) ...	1862	1,000,000	99,080
		17,900,000	4,036,060

Banks.	Current and Deposit Accounts Dec. 31, 1862.	Guarantee Fund.	Rate of Dividend and Bonus per Annum.
	£	£	Per cent.
London and Westminster ...	13,898,736	262,656	24
London Joint-Stock ...	11,472,734	267,173	23
Union Bank of London ...	12,876,355	50,000	12½
London and County ...	7,517,504	175,000	15
City Bank ...	3,208,931	70,000	10
Bank of London ...	3,228,675	82,000	10
Metropolitan & Provincial (limited)	501,604	6,000	5
Alliance Bank of London and Liver- pool (limited) ...	1,019,160	—	—
Imperial Bank (limited) ...	499,123	—	—
	54,212,822	912,829	

Table exhibiting the septennial progress of the London Joint-Stock Banks in the past fourteen years, showing the respective amounts of current and

deposit accounts, guarantee funds, dividend and bonus per annum; also the ratio of increase of current and deposit accounts per cent. within the same period:—

Year.	Banks.	Current and Deposit Accounts.	Guarantee Fund.	Dividend and Bonus per Annum.	Ratio of Increase of Current and Deposit Accounts.
		£	£	Per cent.	Per cent.
1848	London and West- minster.	3,069,659	102,723	6	349.85
1855		8,166,563	137,889	15	
1862		13,898,736	262,656	24	
1848	London Joint- Stock.	2,328,056	128,765	9½	392.80
1848		6,241,504	158,373	19½	
1862		11,472,734	267,173	22½	
1848	Union Bank of London.	2,644,728	40,900	6	386.90
1855		8,363,466	120,000	20	
1862		12,876,355	50,000	12½	
1848	London and County.	1,354,730	26,390	6	454.90
1855		4,443,359	100,000	15	
1862		7,517,504	175,000	15	

The average aggregate increase of current and deposit accounts in the past fourteen years is 386 per cent.

Until the year 1862, the law of Limited Liability appears to have remained almost a dead letter; but the accumulation of unemployed capital, and the low rate of interest charged by the Bank of England, gave an impetus to speculative transactions in new banks that had not been equalled since 1825 and 1826, but Limited Liability in banking has now become the rule and not the exception. By a parliamentary return recently issued, the number of proposed Joint-Stock Banks registered under Limited Liability in 1862, was thirty-seven, with a nominal capital of £33,919,000: of this number only two are returned as "dissolved;" how many more will come under this designation is a question for time to determine. To the published list have to be added several other banking schemes which have since been brought forward; so that banking under Limited Liability has constituted one of the principal objects of speculation since the disturbance of our Lancashire manufacturers and the low rate of interest charged for discount accommodation by the banks.

The following is a list of the Joint-Stock Banks registered in 1862, with the date of their first registration, and the nominal capital of each:—

No.	Name of Company.	Date of Registration.	Nominal Capital.
IN ENGLAND:		1862.	£.
Formed under the Act 21 & 22 Vict. c. 91.			
1	Alliance Bank of London and Liverpool (Limited).	6 Feb.	2,000,000
2	Public Bank of Liverpool (Limited).	13 Mar.	1,000
3	London and Colonial Bank (Limited).	17 Mar.	500,000
4	Imperial Bank (Limited).	3 April	3,000,000
5	London and Lancashire Bank (Lim.).	8 April	1,000
6	Northern Counties Bank (Limited).	9 April	2,000,000
7	Law Bank (Limited).	8 May	1,000
8	London and Southwark Bank (Lim.).	12 May	1,000,000
9	London and Brazilian Bank (Limited).	17 May	1,000,000
10	Union Bank of Ireland (Limited).	20 May	1,000,000
11	Bank of Queensland (Limited).	2 June	1,000,000
12	London and Yorkshire Bank (Lim.).	3 June	1,000
13	London and Middlesex Bank (Lim.).	8 July	1,000,000
14	Manchester and County Bank (Lim.).	9 July	3,500,000
15	Bank of Hindustan, China, and Japan (Limited).	12 July	1,000,000
16	Anglo-French Bank (Limited).	18 July	250,000
17	Lombard Bank (Limited).	13 Sept.	5,000
18	Canadian Bank of England, Nova Scotia, and New Brunswick (Lim.).	22 Sept.	1,000,000
19	Bradford District Bank (Limited).	24 Sept.	650,000
20	London, Buenos Ayres and River Plate Bank (Limited).	27 Sept.	500,000
21	Standard Bk. of British S. Africa (L.).	15 Oct.	1,000,000
22	Bank of Wales (Limited).	23 Oct.	1,000
23	Union Bk. of England & France (L.).	29 Oct.	1,000,000
24	London and South Western Bk. (L.).	1 Nov.	500,000
Formed under the Companies Act 1862.			
25	London and Northern Bank (Limited).	22 Nov.	1,000,000
26	Adelphi Bank (Limited).	1 Dec.	1,000,000
27	Bank of Canada, Nova Scotia, and New Brunswick (Limited).	2 Dec.	1,000
28	Scinde, Punjab, and Delhi Bank Corporation (Limited).	4 Dec.	1,000,000
29	London and North Western Bank (L.).	10 Dec.	2,000,000
30	London and Manchester Bank (Lim.).	16 Dec.	1,000
31	Great Northern & Western Bank (L.).	18 Dec.	5,000,000
32	Great Northern Bank (Limited).	22 Dec.	2,000
33	European Bank (Limited).	23 Dec.	2,000
34	Anglo-Portuguese Bank (Limited).	26 Dec.	1,000,000
35	Exchange Banking Company, of England and America (Limited).	27 Dec.	1,000
36	Leeds and County Bank (Limited).	29 Dec.	1,000,000
37	Central London Bank Co. (Limited).	31 Dec.	2,000

LIMITED LIABILITY AS APPLICABLE TO THE BRITISH COLONIES.

A question has been recently raised, as to how far the principle of Limited Liability can be acted upon by banks established in this country, and carrying on business in the British Colonies. This question has been answered by the Attorney and Solicitor General, in a manner which shows, that Limited Liability, according to Acts passed by the British Legislature, is inoperative where the local legislation of the Colony is opposed to such a principle. The two banking companies which have been brought forward by the treasury to elucidate the question, are, the London and Colonial Bank, (Limited) and the Standard Bank of British South Africa, (Limited.) Other banks established upon the principle of Limited Liability, are referred to in the Treasury minute, as coming within the scope of the same objections. The law, as laid down in the opinion of the Attorney and Solicitor General, is, that Limited Liability, as established by the several Acts of the British Legislature, can only be exercised *within* the limits of the United Kingdom, and that any attempt to enforce the principle in any of the British Colonies may be overruled by the Local Legislature of such Colony. In the present rage for the formation of banking companies of almost every name and character, this exposition of the law, as applied to our Colonies, should be carefully studied by persons who enter into these projects under the impression that they are protected from wrong by the law of Limited Liability, which has been pronounced by the highest legal authorities to have a limitation of itself. The Treasury correspondence is given below:—

(Circular.)

Downing Street, 31st December, 1862.

SIR,—I have the honour to transmit to you, for your information, a copy of a letter from the Treasury, with a copy of a case which has been submitted to the Attorney and Solicitor General, and their opinion thereon, as to the establishment of Joint-Stock Banks in England with Limited Liability for carrying on business in the Colonies.—I have, &c., &c., &c.,

NEWCASTLE.

Lieutenant-Governor, George Dundas, &c., &c.

(Copy.)

The Right Honourable F. Peel to Sir F. Rogers.

Treasury Chambers, 11th December, 1862.

SIR,—With reference to the various communications which have passed between the Treasury and the Colonial Office on the subject of the incorporation of Colonial Banking Companies, and more especially as regards Canada and the Australian Colonies, I am directed by the Lords Commissioners of Her Majesty's Treasury to request that you will inform the Duke of Newcastle that the attention of my Lords having been drawn to proceedings for the establishment of Banks for carrying on the business of Banking in Her Majesty's Colonies or Possessions abroad under the Joint-Stock Banking Companies and Limited Liabilities Acts, their Lordships considered it right to

ascertain the legal status of such Corporations in the Colonies or Possessions in which they may establish themselves.

I am to transmit herewith, for the information of His Grace, copy of a case which has been laid by their Lordships' orders before the Attorney and Solicitor General, with the opinion of those officers on the questions submitted to them. As it appears to be within the power of Colonial Legislatures to pass laws to prevent, regulate, or restrict the operations of Banks of this description, my Lords do not consider it necessary for Her Majesty's Government to interfere in the matter, but they suggest that copies of the case and opinion should be forwarded to the Governors of the several Colonies for their information and guidance.

I am, &c.,
F. PEEL.

Sir F. Rogers, Bart., &c., &c. (Signed)

CASE.

As to the establishment of Joint-Stock Banks with Limited Liability for carrying on Banking Business in the Colonies.

The following is a copy of a letter from the Secretary of the Treasury:—

Treasury Chambers, 1st Nov. 1862.

SIR,—I am desired by the Lords Commissioners of Her Majesty's Treasury to transmit the enclosed copy of their Lordships' Minute of the 31st ultimo, on the subject of Joint-Stock Banking Companies, and I am to direct you to submit a case for the opinion of the Attorney and Solicitor General, according to the instructions contained therein.

I am, &c.,

The Solicitor.

(Signed) GEO. A. HAMILTON.

The following is a copy of the Minute referred to:—

Copy of Treasury Minute, dated 31st October, 1862.

The Assistant Secretary brings under the notice of the Board an advertisement which has appeared in the public papers, of the establishment of a Joint-Stock Bank under the Joint-Stock Banking Companies' Amendment Acts, by the title of "The London and Colonial Bank (Limited)"; likewise an advertisement of the Standard Bank of British South Africa (Limited).

In the memorandum of the first mentioned Association, registered under the Joint-Stock Companies' Acts, 1857 and 1858, it is stated that the object of the establishment of the company is the "transacting of every kind of banking business in India, and the Colonial Dependencies of Great Britain beyond the limits of the United Kingdom."

But it appears from the advertisement that, "in the first instance, it is intended to confine the operations of the Bank to Canada;" and it is announced, that "the management of the bank will be in London, and a branch office will, in the first instance, be established in Montreal, under the control of a local board of directors."

On referring to the Acts relating to Joint-Stock Companies and Joint-Stock Banking Companies, my Lords observe, that a distinction was drawn by the Legislature in the earlier enactments between the two descriptions of undertakings. An Act was passed in 1844 for the regulation of Joint-Stock Companies generally, and in the same year another Act was passed for the regulation of Joint-Stock Banks in England.

In the year 1846 an Act was passed extending the provisions of the last-mentioned Act to Scotland and Ireland.

The Limited Liability Act, 1855, applies only to Joint-Stock Companies formed under 7 and 8 Vict., c. 110.

The Joint-Stock Companies' Act of 1856 excepts from its operation banking and insurance companies.

Thus far legislation relating to banking in the United Kingdom was kept distinct from that relating to Joint-Stock Companies for other description of business.

A further Act was, however, passed in the year 1857, for the regulation of Joint-Stock Companies construed as one with the Act of the preceding year, and which may be cited with it as the Joint-Stock Companies' Acts, 1856—1857.

In the same session, an Act, entitled "Joint-Stock Banking-Companies' Act, 1857," was passed, which repeals the second section of "Joint-Stock Companies' Act, 1856, and incorporates with its enactments the Joint-Stock Companies' Acts, 1856 and 1857," except that it does not permit banks to be registered with Limited Liability.

This latter restriction was removed by an Act passed in 1858, except as regards Banks of Issue in the United Kingdom.

From the foregoing recital of enactments, it would seem that the intention of Parliament had been, in the first instance, to provide a different system of legislation for Joint-Stock Banking Companies in the United Kingdom from that applicable to Joint-Stock Companies, and it may be presumed that by the latter legislation which removed that distinction (with exception of Banks of Issue in the United Kingdom), Parliament had in view only Joint-Stock Banking Companies in England, Scotland, and Ireland, which formed the subject of the Acts of 1844 and 1856.

A more extended view of the operation of these Acts, was, however, taken by the "Agra and United Service Bank (Limited)," which, having obtained a charter under the Act of 1844, reciting a deed of settlement, which purported to recognize a power of carrying on the business of banking beyond the limits of the United Kingdom, was afterwards registered under the Limited Liability Acts.

My Lords understand, also, that proposals have been made for the establishment of other banks under the Joint-Stock Banking Companies' Act, for the purpose of carrying on the business of banking abroad or in the Colonies, under the control of boards of directors in London.

The "London and Colonial Bank (Limited)," now advertised, is, however, as far as this Board is aware, one of the first establishments which have been organized under the Joint-Stock Banking Companies' Acts for the avowed object of carrying on the business of Banking in Her Majesty's Possessions beyond the limits of the United Kingdom; and my Lords apprehend that very serious considerations may arise from that proceeding as affecting legislation for local purposes under powers conferred by Parliament on many of Her Majesty's Colonies and Possessions.

In the case of a Bank established for the purpose of carrying on business in a foreign country, as in that of the London and Brazilian Banking Company, the same questions would not arise. Whatever may be the propriety or legality of an understanding of this nature, promoted under the assumed authority of Acts of the Imperial Parliament, the authority of those Acts cannot extend beyond the limits of the British Empire, and persons carrying on business in a foreign country under the direction of a company incorporated in London, must be subject to the laws of the country in which the business is transacted.

But in case of a British Possession, the authority of the Crown and of Parliament may still have force, notwithstanding the concession of the right of separate legislation.

As, for example, it has been held that even after Parliament had conferred

on the East India Company the power of granting Charters of Incorporation to Banking Companies in India, the inherent right of the Crown to grant similar charters was not thereby restrained. A Company incorporated, therefore, under the laws of this country may possess the rights of an incorporated body in British Possessions, although governed by Independent Legislatures in a more extended sense from that which it could obtain in a country out of the limits of Imperial legislation.

It becomes important in this view to ascertain how far the Acts of Parliament referred to authorise the incorporation of banking companies, for the purpose of carrying on business beyond the limits of the United Kingdom.

As the "London and Colonial Banking Company (Limited)," propose to confine their operations in the first instance to Canada, the condition of the legislation affecting banks in that country will afford the best illustration of the questions to be considered.

The Act 3 and 4 Vic., cap. 35, for the union of Upper and Lower Canada, confers powers on the Legislature there, which may be applied to the regulation of the mode of banking to an extent, at least, which may not be inconsistent with the prerogative of the Crown, or the rights of the Imperial Parliament. In virtue of these powers, the Parliament of Canada passed an Act some years ago for the regulation of the issue of promissory notes, by which the privilege of issue was reserved under certain restrictions to Banks incorporated by Royal Charter or by local enactment.

Since the passing of that enactment many Acts have been passed by the Canadian Parliament for the incorporation of local banks, on the principle of the liability of the shareholders to half the amount of the subscribed capital, the concession of Limited Liability to this extent being accompanied by various restrictions for the security of the public, regarding the management of the banks, and the nature and extent of the business to be carried on by them.

The position of banks incorporated by Royal Charter in reference to Canadian legislation, has on several occasions formed the subject of communication between the home and local governments. On the occasion of an application from the North American Bank for the renewal of its charter, the term of which was about to expire, it was represented by the Canadian Government that a general revision of the banking regulations of the colony was contemplated at the termination of the period to which the privileges of the local incorporated banks were restricted, and in deference to a wish expressed to that effect, my Lords (in concurrence with the views of the Secretary of State for the Colonies) recommended that the term of the new charter, granted by the Queen in Council to the North American Bank, should be restricted to the same date. On two subsequent occasions Her Majesty's Government refused compliance with applications for the grant of charters to London companies for banking in Canada, in consequence of a disinclination expressed by the Canadian Government to an interference with their independent control over the banks in the colony.

In these proceedings Her Majesty's Government has been governed by the policy of allowing colonies possessing representative institutions, free power of regulating their own concerns.

This policy would be seriously prejudiced in the case of banks if the enactments above referred to enable companies to obtain the privileges of a corporation for banking in colonies, without the sanction of the local governments, and without conforming to the principles by which the Colonial Legislatures may have been governed in the establishment of their own banking institutions.

As the London and Colonial Bank (Limited), has been associated for the purpose of transacting every kind of banking business in the colonies, it is

obvious that the issue of notes may be included in such business, and supposing that the power of issuing notes in a colony may be derived from the imperial enactments referred to, it is possible that claims might be preferred on the part of the bank inconsistent with colonial regulations. In the matter of the duration of the corporation, the establishment of this Bank would be opposed to the expressed wish of the Canadian Government, and in regard to the limitation of liability in a more restricted degree than that which has been allowed by the Canadian enactments in the case of other banks, and without the restrictions imposed by those enactments, the constitution of this bank would be at variance with the course of legislation adopted in the colony.

My Lords think it desirable, in order that they may be enabled to consider fully the course which should be followed in this matter, that the true legal force of the enactment of 1858 should in the first instance be ascertained, and they desire that the solicitor will prepare a case for the opinion of the Attorney and Solicitor General on the following points:—

1. Whether the effect of the Acts referred to has been to authorise the establishment of Banks of the character of the London and Colonial Bank.

2. If the statutes do not apply to such a Bank, whether any and what means are open for restraining the promoters.

3. Whether the Canadian Parliament has the power of passing an enactment to prevent, regulate, or restrict the operations of the Bank, if established as proposed in the colony.

When the above Minute was written, the Acts above mentioned were in force.

Upon the 2nd November, "The Companies' Act, 1862" (Stat. 25 and 26 Vic., cap. 89) came into operation.

That Statute repeals almost entirely the above-mentioned Joint Stock Acts (see sections 205, 206, and 3rd Schedule), re-enacting in substance the greater part of their material provisions.

In addition also to the banking projects mentioned in the Minute, a variety of other banks have been projected and advertised, to which the same observations apply as to the London and Colonial Bank; for example, the Bank of Canada, Nova Scotia, and New Brunswick (Limited), whose head establishment is to be in London, with the Right Hon. Sir Edmund Head, K.C.B., late Governor-General of Canada, and Lord Bury, M.P., late Civil Secretary in Canada, at the head of the Direction: the Bank of Queensland (Limited), with an ex-Chief Justice of Jamaica for Chairman, besides various others for carrying on banking operations with Limited Liability, out of Her Majesty's dominions, such as the Union Bank of England and France (Limited), the London and Brazilian Bank (Limited), with influential mercantile names in the direction.

As to the particular Bank in question (the London and Colonial Bank), the following is an abstract of what has been hitherto registered:—

The Company is registered under the "Joint-Stock Banking Companies' Acts, 1857 and 1858."

It was registered on the 17th March, 1862, and its number is 2610.

The documents at present registered are:—

1. Memorandum of Association signed by John Barnard Locke and six others, all of whom subscribe for twenty shares each.

2. Articles of Association signed by the same seven persons.

3. Notice of situation of Registered Office, No. 2, New Palace Yard, Westminster.

4. Notice of change of situation of Registered Office to No. 83, Lombard Street.

In the Memorandum of Association the object of the establishment of the Company to be the "transacting of every kind of banking business in India

and the Colonies and Dependencies of Great Britain beyond the limits of the United Kingdom.

"The Head Office shall be in the City of London."
The Attorney and Solicitor General are requested to favour the Lords of Her Majesty's Treasury with their opinion.

1. Whether the effect of the Acts referred to (including the late Act of 25 and 26 Vic., cap. 89) is to authorise the establishment of Banks of the character of the London and Colonial Bank.

2. If the Statutes do not apply to such a Bank, whether any and what means are open for restraining the promoters.

3. Whether the Canadian Parliament has the power of passing an enactment to prevent, regulate, or restrict the operations of the Bank, if established as proposed in the Colony (see Stat., 3 and 4 Vic., cap. 85).

1st. We think that the effect of the Act 25 and 26 Vic., cap. 89, is to permit the establishment in this country upon the footing of other companies regulated by that Act, of Banks such as projected London and Colonial Bank. The Act, however, would not authorise them to carry on the business of banking in Colony or Foreign Possession of the British Crown in any manner not authorised and permitted by the local law prevailing from time to time in such Colony or Possession. It would, we conceive, merely invest them throughout the British Dominions with the character of the English corporations domiciled in England with Limited Liability (which it is to be observed is the normal condition of corporations, as such, the individual members of corporations, not being, by the common law, liable for their engagements); and subject both as to the nature and extent of their corporate powers and management, and as to the conditions on which they may be dissolved and wound up, to the rules and provisions of that Statute.

2nd. Whether the Act applies or not, we think that as to everything which such companies or their promoters may propose or attempt to do elsewhere than in the United Kingdom, they may be restrained in such manner as may be thought expedient by local legislation.

3rd. Our answer to this question is in the affirmative, the question being confined to the operations of the Bank in the Colony, and not extending to its corporate capacity or constitution as defined by the Imperial Statute.

(Signed)
(Signed)

WM. ATHERTON.
ROUNDELL PALMER.

Temple, 2nd December, 1862.

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